

REMARKS

It is noted that a Request for Continued Examiner (RCE) is being filed concurrently with this response. During a telephone conversation with the Examiner on October 4, 2007, Applicant's attorney requested the examiner to permit a telephonic interview to be held between the Examiner and Applicant's attorney after the filing of an RCE for this application, and before the examiner commences any searching and/or further examination of this application on its merits.

New claims 52-63 have been added to the application. No new matter has been added.

On page 5 of the Final Office Action, claims 1-51 are rejected by the examiner under 35 U.S.C. 103(a) as being unpatentable over Loose et al. US 6517433 in view of Siomiany et al. US 6612927. This rejection is respectfully traversed.

Regarding the rejections of claims 1-51, it is noted that applicant's attorney respectfully disagrees with various assertions made by the examiner in prior office actions regarding the teachings of Loose et al. (U.S. Patent No. 6,517,433) and Slomiany et al. (U.S. Patent No. 6,612,927).

For example, it is believed that neither Loose et al. or Slomiany et al. teach or suggest, among other things, the feature of a gaming machine controller being operable to prevent a second wager on a first game type if the controller determines a first value payout associated with the first game type to be at least a predetermined (or non-zero) amount.

On page 11 of the Final Office Action the examiner cites Slomiany 8:6-20 in support of the assertion that Slomiany teaches the feature of a gaming machine controller being operable to prevent a second wager on a first game type if the controller determines a first value payout associated with the first game type to be at least a predetermined (or non-zero) amount. Applicant respectfully disagrees.

For reference purposes, Slomiany 8:6-21 states:

In this first embodiment, the criterion for advancing from one stage to the next is any win on the current stage. It is envisioned that other criteria may be used in other embodiments, such as a special symbol, which while only paying in certain configurations, would advance a player to the next level anytime it appeared in the game.

Turning now to FIG. 1, the first embodiment has each stage as a five-reel, five-line video slot machine. This is of a type of slot machine often called

"Australian style." This machine allows the player to make a wager on one to five paylines, and allows a bet from one to nine coins bet on each payline for a maximum of forty-five coins bet per game. FIG. 1 shows the first three paylines, with payline 1 drawn horizontally across the center symbols, payline two drawn across the upper symbols and payline three drawn across the lower symbols.

The examiner further states on page 11 of the Final Office Action that Slomiany disclose a system where the player is able to place bets on more than one game in which the game type is up to the player to choose, and that the advancement criteria is based on a win/lose situation. The examiner further asserts that once this winning event is determined, the controller does not offer the player to place a bet on the first game since the controller is programmed to generate the second level (game) once the winning event is determined.

However, Slomiany 8:6-7 clearly teaches that detection of a win event at the current stage of the game, may result in the game advancing from one stage of the game to a next stage of that game. Accordingly, it is clear that the different stages described in Slomiany 8:6-21 relate to a multi-stage game, which, in the particular example described, corresponds to a video slot type game.

Moreover, Slomiany Column 1, Line 56-57 state, "In broad overview, the present invention in one aspect allows the placing of multiple bets on different stages of a game. The game is comprised of a plurality of stages." Additionally, the examiner asserts on page 12 of the Final Office Action that Slomiany's reference is particularly related to a game comprising a plurality of stages, as opposed to a game comprising of one stage.

Thus, for example, according to the teachings of Slomiany, when a win event occurs at a first stage of the multi-stage game, the player is advanced to the second stage of that game, and allowed to continue to participate in game play and wagering activities relating to that game. Further, there does not appear to be any teaching or suggestion in Slomiany for preventing a wager to be placed on a given game or game type upon advancing that game from a current game stage to the next game stage.

Additionally, Slomiany does not appear to teach or suggest that the advancement criteria (e.g., criteria for advancing the game from one stage to the next stage) corresponds to criteria specifying a value payout of at least a predetermined amount or a nonzero amount. Rather, as suggested in the remarks of the response to final office action mailed June 5, 2007, a win is not well known in the art to be equivalent to a value payout of a predetermined amount or nonzero amount. Instead, a win merely represents an outcome (i.e., condition) of the game being played.

A value payout amount may be associated with a win, but a winning condition in and itself is not a value payout amount.

In response to this argument, the examiner has asserted, on page 3 of the Advisory Action mailed 07/10/2007 that *the examiner's interpretation of "winning" in a gaming environment is a win of a value that does not equate to zero. For if it equate to zero, then it is deemed a "loosing" event.* However, this interpretation by the examiner directly conflicts with the teachings of Slomiany.

For example, Slomiany expressly teaches:

Each stage has a "winning" condition and a "losing" condition. That is, there is an established criterion or criteria whereby the player may advance from one stage to the next, or may not. As used throughout this disclosure, and in the claims, "winning" and "losing" are to be considered synonymous with advancing or terminating, unless otherwise stated. (Slomiany 2:51-57)

As will be understood throughout this invention disclosure, "winning" is just one form of possible advancement to the next level. For example, one aspect of the invention includes a "special card" (Free Ride) which permits advancement even if a "losing" condition is presented at a level. (Slomiany Column 1, line 65-Column 2, line 3).

When the "Free Ride" is indicated, the hand will be dealt as usual and paid according to the paytable, but the game will automatically advance to the next hand that was wagered on, whether or not the player wins the current hand. (Slomiany 26:35-38)

From this teaching it is clear that the term "winning" as used in Slomiany represents a condition or criteria whereby the player may advance from one stage to the next. In this regard, the term "winning" as used in Slomiany may be characterized as representing an outcome event or condition of the game. However, there is no express or implied teaching or suggestion in Slomiany which supports the examiner's assertion that the term "winning" in a gaming environment is synonymous with a payout value that does not equate to zero, and that the term "losing" is synonymous with a zero payout value.

To the contrary, Slomiany expressly teaches that one aspect of the invention of Slomiany includes a "Free Ride" feature which permits advancement even if a "losing" condition is presented at a level. For example, as stated at Slomiany 26:35-38, when a "Free Ride" condition occurs, the hand will be dealt as usual and paid according to the paytable, but the game will automatically advance to the next hand that was wagered on, whether or not the player wins the

current hand. From this teaching of Slomiany it is clear that the term “win” is based on the outcome of the game, and not upon the payout value resulting from the game outcome.

Accordingly, it is believed that neither Slomiany nor the other cited prior art references of record appear to teach or suggest that the advancement criteria (e.g., criteria for advancing the game from one game stage to the next stage) corresponds to criteria specifying a value payout of at least a predetermined amount or a nonzero amount.

Since neither Loose nor Slomiany appear to teach or suggest, either singly or in combination, the entirety of the features defined in claim 1, for example, claim 1 is believed to be neither anticipated by nor obvious in view of Loose and/or Slomiany.

Additionally, based at least one the above arguments, even if one were to assume, for purposes of argument, that one of ordinary skill and the art would be motivated to combine the teachings of Loose, Slomiany and/or other cited prior art references of record, the resulting modified system would not include the entirety of the features as defined in claim 1, for example.

Accordingly, for at least these reasons, claim 1 is believed to be allowable.

Independent claims 4, 19, 24, 41, 47, and 52 define at least some features similar to those defined in claim 1, and are therefore believed to be allowable for at least those reasons stated above in support of claim 1. Additionally, each of the presently pending dependent claims is also believed to be allowable since it depends upon a respective independent claim.

The additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from the prior art of record.

Because each of the presently pending claims are believed to be allowable in their present form, many of the examiner's rejections in the Office Action have not been addressed in this response. However, applicant respectfully reserves the right to respond to one or more of the examiner's rejections in subsequent amendments should conditions arise warranting such responses.

Double Patenting Rejection

Regarding the obviousness-type double patenting rejection of claims 1-51, MPEP 804(II)(B)(1) states that obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is not patentably distinct from the subject matter claimed in a commonly owned patent. Since the present application and Slomiany are not commonly owned, Slomiany can not be used as a proper bases for making a obviousness-type double patenting rejection of the claims in the present application. Additionally, it is noted that, while

the present application and Chamberlain (U.S. Patent Appl No. 10/178876) are commonly owned, Chamberlain (U.S. Patent Appl No. 10/178876) has not yet issued as a patent. For the purpose of expediting prosecution in the present case, applicant represents that a terminal disclaimer will be filed, if required, upon the occurrence of: (1) Chamberlain (U.S. Patent Appl No. 10/178876) issuing as a patent, and (2) at least some of the pending claims of the present application is indicated to be allowable. This offer is made to expedite prosecution and in no way constitutes a concession that some pending claims are not patentably distinct from some claims of Chamberlain (U.S. Patent Appl No. 10/178876).

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,

BEYER WEAVER LLP

/Dean E. Wolf/

Dean E. Wolf
Reg. No. 37,260

P.O. Box 70250
Oakland, CA 94612-0250
(510) 663-1100